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| 24628 7590 09/18/2009 Husch Blackwell Sanders, LLP Husch Blackwell Sanders LLP Welsh & Katz 120 S RIVERSIDE PLAZA 22ND FLOOR CHICAGO, IL 60606 | | | | |
| | | | EXAMINER | |
| | | | JANVIER, JEAN D | |
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| | | | 3688 | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/885,970

Applicant(s)

FOGELSON, BRUCE A.

Examiner

JEAN JANVIER

Art Unit

3688

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 June 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-58 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-58 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
- Paper No(s)/Mail Date: _____

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 06/16/09 has been entered and a Non-Final Rejection follows.

Response to Applicant's Arguments

First of all, the Examiner acknowledges the receipt of a plurality (i.e. eight) of 130, 131 and 132 Affidavits, filed on June 16, 2009, from family members and others. The relevance of those Affidavits, with respect to the claimed invention, is not quite clear at this point. As previously noted, to begin with, the Rothstein's reference has been used several times and the Applicant did not attempt to ante-date the reference. Further, the Rothstein's reference talks about placing ads on behalf of one or more advertisers in an ad book, while the basic function of the claimed invention is to raise money for a non-profit organization by placing ads, related to supporters, in a printed material or in an ad book and to receive pledges from the supporters. Here, "it is not enough to merely show possession of what the reference happens to show if the reference does not teach the basic inventive concept". In addition, the Rothstein's reference was filed on 03/10/00, while the present Application was filed on 06/21/01, more than two years after the Applicant had this idea in 1,999 and more than thirteen months after the filing date of the reference. In this case, the Affidavit cannot antedate the reference, which does not address the

basic concept of the claim invention, as admitted by the Applicant, for the Rothstein's reference discloses an ad book recited in the alternative in the claimed invention.

Second of all, Applicant submits that it appears that the Office Action simply assumes that if a book contains ads, then (ergo) it must be an ad book. However, continues the Applicant, this assumption clearly misunderstands the **conventional meaning in the art of the term "ad book"** and that **independent claims 1, 28, 29 and 50 are limited to "ad books., used by or for a recognized not-for-profit organization."** First, the Examiner notes that the phrase "ad book" is well understood and no expert's opinion is necessary here to help define "ad book", which literally means a book containing ads or promotions (e.g. printed coupons). **Second, and more importantly, if the term "ad book" has a conventional meaning in the art, as submitted by the Applicant, then it is unclear why the Applicant had tried to ante-date the Rothstein's reference for previously teaching an (electronic) "ad book", via a 131 Affidavit, which does not disclose an "ad book" now based on the Applicant's latest or current remarks (See page 13 of the Applicant's response). Applicant is herein being encouraged to clarify the record.** Third, the argued claims simply recite placing crafted ads in an "ad book" or related print publication (such as magazine, catalog, any "unitary" publication", newspaper, to name a few, including the Rothstein's "ad book"). Additionally, the Rothstein's (electronic) "ad book" **is not "functionally" and "structurally" different from the claimed "ad book"**. Rothstein's (electronic) "ad book" can also be treated here as a "related publication", as recited in the argued claims. Having said that, contrary to the Applicant's contention, the argued claims are not limited to placing crafted ads in a (conventional) "ad book."

Third of all, regarding the “Street News” publication featured in the “Official Notice”, Applicant submits that the difficulty with the related assertion is that there is no identifiable organization (other than the newspaper) that solicits the ads and it appears that the solicitation is, in fact, **by the newspaper on a for-profit basis**. Although the Examiner seems to agree with the Applicant’s statement, however, it appears rather that the newspaper has to cover its cost (including printing costs) and charge advertisers accordingly for posting their messages in the newspaper. The same is true for the present invention. Further, the Examiner offers no comments if the Applicant finds the “Special cards” and “Church Bulletin” materials irrelevant. Here, the Examiner simply wanted to outline other printed publications useful in raising funds for charities. Moreover, although the materials featured in the “Official Notice” have been part of the Office Actions for a while, however, it appears that the Applicant has now decided to find them to be irrelevant. The Examiner wants to remind the Applicant that since the “Official Notice” was not seriously challenged in the prior Actions, those featured materials have now become “de facto” prior art.

Therefore, the Applicant's request for allowance or withdrawal of the last Office Action has been fully considered and respectfully denied in view of the foregoing response since the Applicant's arguments as herein presented are not convincing.

DETAILED ACTION

Specification

Claim Status

Claims 1-58 are currently pending in the Application.

General Comments

Here, "receiving a pledge or contribution from the member, supporter or contributor on behalf of the recognized not-for-profit organization" is accomplished when the member places an ad in the ad-book and is charged a fee. The fee paid by the member for the ad placement therein represents a donation or contribution to the organization or a pledge by the member to donate or contribute such amount or fee to the organization fundraising activity until the member actually places the ad in the ad-book and the related fee or charge is received. In other words, broadly interpreted, the fee paid by the advertiser or member for agreeing to place or for placing an ad in the ad-book, used by the organization as a fundraising vehicle, is a pledge to contribute to the organization fundraising effort.

Claim Objections

Claim 1 is objected to because of the following informalities-

Concerning claim 1, “processing the ad or message **at** the server...” should apparently be --processing the ad or message **by** the server--.

Appropriate correction is required.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 28 (including its dependent claims) is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Based on Supreme Court precedent, a method/process claim must (1) be tied to “a particular machine” (such as a particular apparatus) (see at least *Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972); *Cochrane v. Deener*, 94 U.S. 780, 787-88 (1876)) or (2) transform underlying subject matter (such as an article or materials) to a different state or thing (see at least *Gottschalk v. Benson*, 409 U.S. 63, 71 (1972)). A method/process claim that fails to meet one of the above requirements is not in compliance with the statutory requirements of 35 U.S.C. 101 for patent eligible subject matter. Here, the claims fail to meet the above requirements because the steps are neither tied to a “particular machine” (such as a particular apparatus), nor do they physically transform the underlying subject matter

(such as an article or materials) to a different state or thing. In independent claim 28, for example, the presence of a “particular machine” is inserted in a non-significant step and thus, it cannot be used to overcome the 101 rejection. To be statutory, at least a “particular machine” can be incorporated in the “classifying” and “converting” steps as recited in claim 28 (In re Bilski, 88 USPQ2d 1385. (Decided October 30, 2008)).

Further, the Examiner notes that Applicant may show that a process claim satisfies §101 either by showing that Applicant's claim is tied to a particular machine, or by showing that Applicant's claim transforms an article (See Benson, 409 U.S. at 70). Certain considerations are applicable to analysis under either branch. First, as illustrated by Benson, the use of a specific machine or transformation of an article must impose meaningful limits on the claim's scope to impart patent-eligibility (See Benson, 409 U.S. at 71-72). Second, the involvement of the machine or transformation in the claimed process must not merely be insignificant extra-solution activity (See Flook, 437 U.S. at 590).

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 28 (including its dependent claims) is rejected under 35 USC 112(2) as being confusing for reciting “means for receiving contribution from the contributor on behalf of the recognized not-for-profit organization” since the claim is a method or process claim. In other words, a method claim cannot include a “means for” function in this manner.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-9, 12-15, 16-27, 28-37, 40-49 and 50-58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rothstein, US PUB, 2002/0188532A1.

(Here, “receiving a pledge or contribution from the member, supporter or contributor on behalf of the recognized not-for-profit organization” is accomplished when the member places an ad in the ad-book and is charged a fee. The fee paid by the member for the ad placement therein represents a donation or contribution to the organization or a pledge by the member to donate or contribute such amount or fee to the organization fundraising activity until the member actually places the ad in the ad-book and the related fee or charge is received. In other words, broadly interpreted, the fee paid by the advertiser or member for agreeing to place or for placing an ad in the ad-book, used by the organization as a fundraising vehicle, is a pledge to contribute to the organization fundraising effort).

As per claims 1-9, 12-15, 16-27, 28-37, 40-49 and 50-58, Rothstein discloses an apparatus and method for advertising in electronic documents (ad books). According to one implementation, the method includes receiving an electronic book from a publisher (organization), receiving one or more electronic ads from one advertiser (supporter), inserting the electronic ads into the electronic book to create an enhanced electronic book or ad book **(classifying the received ads into an electronic ad book)** and sending the enhanced electronic book to a customer for viewing or reading the advertisements included in the ad book (See abstract; figs. 1-5; paragraph [0006]).

In general, publishers have begun to provide more substantial electronic documents, which are referred to herein as "electronic books." An example of an electronic book is a book that has been converted to electronic form for download and display. Electronic books have been developed for PDAs such as the Palm-Pilot and Windows CE devices. One supplier of such books is Peanut Press (www.peanutpress.com). See paragraphs [0004] and [0002], [0003] and [0005].

Rothstein discloses, in one embodiment, that the electronic ads are received from one or more advertisers over a network. When an enhanced electronic ad book, containing electronic ads associated with one advertiser, is sent to a customer via a hyperlink, a debit entry is created in the advertiser's account. Subsequently, the advertiser is billed according to the entries in the advertiser's account (charging the advertisers, members or supporters a fee for inserting the ads in the ad book and for providing the ads via the ad book to the customer (providing the ad book to the user). See paragraphs [0008], [0007] and [0009].

Rothstein further discloses, in another aspect, that the location within the electronic book (ad book) for insertion of an ad is determined according to one or more keywords associated with the electronic ad. The keywords can be supplied by the **advertiser that** provided the ad. Pages within the electronic book can be scored according to the keywords and a suitable location is selected according to the score. Further, the electronic ads are inserted within a structured electronic document, such as a sound file or video file. See paragraphs [0010]-[0013].

Please consider the entire disclosure.

As per claims 1, 28, 29 and 50, although in Rothstein's, the "ad book", having one or more ads crafted by advertisers or contributors and inserted therein, can be used for any purpose, however, Rothstein does not expressly disclose that the contributor or advertiser uses a preparation tool or software stored on a server to craft or create an ad that is to be inserted in the ad book and that the organization (publisher) uses the "ad book", having inserted therein one or more ads placed by advertisers or supporters, as a fund raising vehicle by charging a fee to a supporter for agreeing to place or for placing an ad in the ad-book (receiving a pledge or contribution from a supporter for agreeing to place an ad in the ad-book).

"Official Notice"

However, it is common practice in the art for an organization or a third party (merchant or a clearinghouse) to raise funds on behalf of a non-profit or charitable organization using a plurality of well-known methods (see the Burke's Patent cited in the conclusion section for instance). For example, "Street News" is a local newspaper published by an organization in New

York City on behalf of the Homeless. The organization solicits and receives ads from advertisers or supporters, supporting the Homeless cause, and the advertisers' messages are placed or displayed in the newspaper that is distributed and sold to the public at large and the advertisers or supported are billed for placing their ads in the newspaper **(receiving a pledge or contribution from a supporter or advertiser for agreeing to place an ad in the "Street News" newspaper or ad-book)**. The revenue collected from the sale of the newspapers and advertising space to the advertisers is used, minus the overhead cost, to help provide food, housing and so on to the NYC Homeless.

In addition, an organization or individual selling "Special" greeting cards to raise funds for the needed solicits ads from advertisers or supporters willing to place ads for a fee in the "Special" greeting cards before they are being printed and sold to the public or supporters, wherein the revenue collected from the sale of the greeting cards and advertising space to the advertisers is used, minus the overhead cost, to help the needed.

Moreover, church bulletins, containing information regarding church activities including hymns, often have displayed thereon in the back portions announcements and advertisements on behalf of local advertisers or supporters or contributors for an advertising fee and the revenues raised through this process help cover the churches overhead cost. For instance, Holy Name Church, located in New York City, often prints in the back of its French bulletins (ad books), related to its French Mass or Service (particularly during Easter Sunday, New Year's Day Service), a plurality of advertisements associated with local businesses or advertisers (displaying a plurality of advertisements in a bulletin or in an ad book of a church member) and the revenues collected from the advertisers or businesses (contributors or donors) for printing their

advertisements on the bulletins help cover the Church overhead cost. In turn, the advertisers can claim the advertising fees as either business expenses or a deductible charitable contribution to support the Church. It is also customary that the advertisers often prepare or craft the advertising messages, related to the advertisements, and send them to a Church's Representative to be printed in the bulletins (ad-books).

It is also common practice in the art to allow an advertiser or an agent working on behalf of an advertiser to connect, over a network, to a server and download therefrom a tool or software used to craft or create one or more advertisements. For instance, an advertiser or an agent visits a web site or advertising medium connected to a computer network, such as the Internet, and retrieves a tool or software stored on a web server coupled to the web site and creates in real-time, using provided audio, video, etc, one or more advertisements to be stored on the server database for later retrieval and display to visitors of the site. Cost information, related to displaying the crafted advertisements to the visitors, is also provided to the advertiser or agent during the course of creating the advertisements. Furthermore, it is customary in the art that an advertiser may craft or create an ad that is to be displayed in a printed medium or publication, such as a newspaper, magazine, et cetera, subsequent to receiving a quote or cost related to the display of the ad in the print medium (See the Carney's references and cited therein).

Further, using the "ad book", having inserted therein ads placed by advertisers or supporters, as a vehicle to raise funds on behalf of charities is an "intended use" recitation. In other words, using the money collected from the advertisers for a particular purpose, such as a fundraising, is an "intended use" that does not impact the content of the ads per se and the manner in which the ads are created and placed into the "ad book". The same "ad book" could be

used to raise money for any other project. In other words, the purpose or the specific use of the “ad book”, having ads inserted therein, does not immediately impact the functionality of the system.

Finally, in limitation “wherein the ad or message in the ad-book or related publication contains laudatory statements about the recognized not-for-profit organization”, the specific content of the ad is a non-functional and non-descriptive material. In other words, the specific content of the ad is a matter of desires, which does not directly impact the functionality of the system.

Therefore, it would have been obvious to an ordinary skilled artisan, using or implementing the system of Rothstein at the time of the invention, to incorporate the above disclosure (“Official Notice”) into the system of Rothstein so as to use the “electronic book” or “ad book” or publication as a vehicle to raise money or funds, by inserting therein a plurality of advertisements from a plurality of advertisers who are charged a fee for such a service, for any purpose including, but not limited to, raising funds on behalf of a charity or non-profit organizations, wherein the advertisers craft or create the advertising messages or advertisements in real-time using a tool or software available on a server database coupled to the host or distributor’s web site, wherein an organization or non-profit organization (distributor) solicits ad placements, into the publisher’s electronic book (enhanced electronic book or ad book), (Street News) newspaper, greeting cards, church bulletins, et cetera, from advertisers or supporters, supporting the organization cause, and the advertisers’ messages are placed or displayed in the electronic “ad book” or physical “ad book” or publications (such as newspapers, greeting cards

and so on) distributed and/or sold to the public at large and the advertisers or supported are billed for placing their ads in the “ad book” or publication and wherein the revenues collected from the sale of advertising space, in the electronic book, (Street News) newspaper, church bulletins et cetera, to the advertisers or supporters are used, minus the overhead cost, to financially help the organization or to provide food, housing/shelter and so on to the Homeless, poor and the needy, thereby allowing an advertiser or contributor to use a tool or software stored in an online server or system database to create or prepare in real-time an ad that is to be inserted in an ad-book or publication, while providing an easy means or vehicle used by an organization or charity to raise needed funds, wherein the collected funds, minus the overhead cost, are used to continue to provide the necessary and indispensable assistance to the poor and needy and while featuring the company or publisher (and/or distributor) associated with the electronic “ad book” as a company that cares for the poor, which in the end helps improve the company or publisher’s image through a good PR (Public Relations).

As per claims 10-11 and 38-39, although Rothstein silently or implicitly supports at least the use of login names and passwords by at least the publishers and the advertisers to upload electronic books and advertisements data respectively onto the web server 220 of fig. 2, however, Rothstein does not explicitly disclose that the web server comprises **a firewall for maintaining security**.

“Official Notice”.

However, it is common practice in the art of computer technology to use or install a firewall module (software) on a file server or local terminal to prevent unauthorized users from

accessing the server or terminal, thereby securing or protecting data stored on the server or terminal.

Therefore, it would have been obvious to an ordinary skilled artisan, using or implementing the system of Rothstein at the time of the invention, to incorporate the above disclosure ("Official Notice") into the system of Rothstein so as to install a firewall module on the web server 220 to thereby protect the data, such as advertisement data and electronic book data, stored on the server by preventing unauthorized users from accessing the server, while providing a greater layer of security at the server side, as would have understood an ordinary skilled artisan.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US 2002/0040374 to Kent discloses a method of producing a mass distributed publication through the creation of a plurality of subscriber specific versions, includes obtaining subscriber profile information relating to the nature of the subscriber's content preferences. A content database is provided that contains a plurality of content items. A computer is employed to select content items from the content databases, based upon the subscriber's content preferences. The selected items are forwarded to a high speed printer capable of printing at least one hundred pages per minute. The pages printed by the digital printer are then assembled into a unitary publication.

US2008/0022010 to Franklin discloses a system for establishing a dedicated Internet connection between a user and a marketer. The connection is initiated by a customer

downloading a framework program for a viewer. Thereafter, as content is communicated to the user, it is included with program code used with the framework program to enhance the presentation capabilities of the viewer. More robust presentations are thus enabled over a one-to-one channel (See abstract).

US 2005/0209914 to Nguyen discloses a method and apparatus for providing enterprise event marketing and management automation. A website is provided that includes online tools for event marketing and management. A user in communication with the website is allowed to create an event page and a registration page associated with the event page, utilizing the online tools. The event page includes a link to the registration page. The event page is forwarded to a participant to enable the participant to establish communication with the registration page utilizing the link. The registration page is forwarded to the participant to be completed and returned in response to the communication and a confirmation is communicated to the participant in response to receiving the registration page and response. Information received from the participant is communicated to the user in order to allow for further event organization and management (See abstract).

US 2002/0049816 to Costin discloses a fundraising system and method that allow users to raise money from friends and other entities over a distributed network, such as the Internet, is presented. The present invention provides online marketing applications for e-businesses by using the power of viral marketing to enable clients to attract new customers at a lower cost, and build brand loyalty. For example, the fundraising system of the present invention enables e-businesses to partner with causes, such as charitable, non-profit and community organizations, to host fundraising events online with interactive participation by all involved. For example, an e-

mail networking component may enable fund-raisers to send out an infinite amount of requests supporting the cause they care about. Thus, for every fund-raiser, the host e-business gets a new flow of visitors to their site (See abstract).

US 2002/0029179 to Gruber discloses a system and method for on-line, interactive fundraising over a wide-area network is provided. The method includes hosting an organization's website including a plurality of hyperlinked web pages, displaying one or more virtual plaque web pages honoring donors, providing one or more donation and payment option web pages, the options selectable by a donor, and modifying or otherwise updating virtual plaques on the virtual plaque web pages when a donation is made. The method further includes creating a personalized donation page for the donor. The method further includes e-mailing the virtual plaques or the links thereto to potential donors, thereby spreading the message regarding the cause and increasing the likelihood of contribution from additional donors. The method further includes editing and modifying the virtual plaque. The virtual plaque can be static or a scrolling plaque. The method additionally includes generating reports with information, such as total amount raised, number of donors, average amount of donations, deductions for tax purposes, etc (see abstract).

US PUB 2002/0162106 to Pickover discloses a system for choosing an advertisement based on the last media content monitored just before the break. Alternatively, the content of various past selections may be monitored and acted upon in selecting advertising content. In yet another embodiment the system may be proactive and accept input from the client. For example, if the user selects the "change channel" button on a remote TV control, the TV may ask, "Would you like to hear an ad on cars?" or "Press 1 for an ad on cars; press 2 for an ad on books." Each of

the above choices would be facilitated by an intelligent agent as being part of the system. In the absence of any other guidance, with or without the involvement of an intelligent agent, the advertisement to be presented may be determined by the queuing sequence of advertisements in the storage element (See abstract and [0010]).

USP 6, 112, 191 to Burke discloses an “open” POS network having a spending /saving system consisting of registered subscribers/payors, who tender payments exceeding the balance due or the transaction values during transactions at registered retailers’ POS terminals, wherein the differences or excess funds between the received payments and the transaction values or retail prices are calculated or computed by the POS terminals or ECRs and deposited in an internal payor’s or consumer’s account maintained by merchants or retailers MC, related to the POS terminals, who in turn transfer the excess payments or collected differences to a single clearinghouse computer CCC, for further processing, on behalf of an identified payor or customer who identifies himself via a subscriber card swiped at the POS terminal or entering an account code therein. Further, the system allows each subscriber or SP the ability to make multiple deposits in various cross country locations at related and unrelated merchants’ POS terminals, wherein the subscriber or payor can contribute as little as **a penny** in a transaction in 24 hour period. The storing of the differences or excess payments corresponding to the payor into the merchants’ system databases or remote terminals can be conducted online or offline. At the completion of a specified period (periodically or weekly or daily) or when a certain threshold amount (like \$50.00) is reached, the total off-line transaction file, associated with the identified customer, stored in the merchant terminal internal databases is then batched online from each individual merchant’s local database to the clearinghouse central computer CCC, **which**

transmits the collected differences or pennies via an EFT system to a PC related to at least one payor's selected provider account or PA, which can be banks, insurance companies, security firms, for deposits or savings and investments and the payor or the registered or enrolled customer can determine how to use the savings. Moreover, the PA, such a bank, a security firm or any other investment firm, will manage the subscriber's or SP's account in accordance with the subscriber's instructions. The POS terminals at the merchants transfer the subscribers' excess payments or the differences or change due to the clearinghouse central computer or CCC in real-time via communication link CS. The subscribers can specify or have full control over the amount of excess payments they want to contribute or deposit into their accounts at one or more PAs, such banks, security firms, insurance companies or other investment entities (See abstract; col. 2: 45 to col. 3: 14; col. 3: 14-30; col. 3: 31-35; col. 3: 49-64; col. 4: 46-62; col. 4: 63 to col. 5: 40; col. 9: 1-15).

Any inquiry concerning this communication from the Examiner should be directed to Jean D. Janvier, whose telephone number is (571) 272-6719. The aforementioned can normally be reached Monday-Thursday from 10:00AM to 6:00 PM EST. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Mr. Eric W. Stamber, can be reached at (571) 272- 6724.

Non-Official- 571-273-6719.

Official Draft : 571-273-8300

09/10/09

/J. J./

/Jean Janvier/

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Primary Examiner, Art Unit 3688